

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: StaceyAnn McFarlane-Ross	Team: Squad #15	CCRB Case #: 201702090	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 03/19/2017 12:20 AM	Location of Incident: Northeast corner of East 158th Street and 3rd Avenue	Precinct: 40	18 Mo. SOL 9/19/2018	EO SOL 9/19/2018	
Date/Time CV Reported Mon, 03/20/2017 1:19 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/20/2017 1:19 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM John Katehis	07177	956788	040 PCT
2. POM John Manzo	16260	960864	040 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM John Katehis	Abuse: Police Officer John Katehis searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM John Katehis	Discourtesy: Police Officer John Katehis spoke discourteously to § 87(2)(b)	
C.POM John Katehis	Abuse: Police Officer John Katehis interfered with § 87(2)(b)'s use of a recording device.	
D.POM John Katehis	Abuse: Police Officer John Katehis damaged § 87(2)(b)'s property.	
E.POM John Katehis	Force: Police Officer John Katehis used physical force against § 87(2)(b)	
F.POM John Katehis	Discourtesy: Police Officer John Katehis spoke discourteously to § 87(2)(b)	
G.POM John Katehis	Discourtesy: Police Officer John Katehis spoke discourteously to § 87(2)(b)	
H.POM John Katehis	Abuse: Police Officer John Katehis refused to provide his name and shield number to § 87(2)(b)	
I.POM John Manzo	Abuse: Police Officer John Manzo refused to provide his name and shield number to § 87(2)(b)	
J.POM John Katehis	Abuse: Police Officer John Katehis searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	

Case Summary

On March 19, 2017, at approximately 12:20 a.m., § 87(2)(b) and § 87(2)(b) were traveling together in a vehicle on Third Avenue in the Bronx when they were stopped at the intersection of East 158th Street and Third Avenue by PO John Katehis and PO John Manzo, both from the 40th Precinct. As § 87(2)(b) stopped the car, PO Katehis approached the driver's door and asked § 87(2)(b) for his name, license and registration. After PO Katehis asked § 87(2)(b) several times for his name, license and registration and § 87(2)(b) refused, he asked § 87(2)(b) to exit the car. § 87(2)(b) refused to exit the car and asked PO Katehis the reason he had to exit. § 87(2)(b) alleged PO Katehis opened his car door, reached inside the car, unbuckled his seatbelt, and took him out of the car (**Allegation A**). Once § 87(2)(b) was outside of the car, he alleged PO Katehis and PO Manzo patted him down before he was taken to the rear of the car. At some point, § 87(2)(b) told PO Katehis that he was violating his rights, and PO Katehis allegedly told § 87(2)(b) "You have no fucking right" (**Allegation B**).

PO Katehis interacted with § 87(2)(b) and instructed him to exit the car several times, but § 87(2)(b) refused. § 87(2)(b) alleged PO Katehis reached inside the car, took his cell phone from him, and slammed it on top of the car roof, which allegedly shattered the cell phone screen (**Allegations C and D**). § 87(2)(b) alleged PO Katehis grabbed his left arm and pulled him out of the car (**Allegation E**). As § 87(2)(b) and § 87(2)(b) were outside of the car, PO Katehis allegedly stated to § 87(2)(b) "You're teaching this kid to be a dumbass like you." (**Allegation F**). § 87(2)(b) responded to PO Katehis's statement, and alleged PO Katehis told him, "Try not to be a dumbass you little bitch." (**Allegation G**).

Both PO Katehis and PO Manzo returned to the RMP and PO Manzo alleged he retrieved § 87(2)(b)'s identification from his pocket. PO Manzo checked § 87(2)(b)'s information. During that time, PO Katehis remained by the RMP and § 87(2)(b) asked PO Katehis for his name and shield number. § 87(2)(b) alleged PO Katehis did not provide it (**Allegation H**) and alleged PO Katehis told him, "You ain't getting shit." (**Subsumed into Allegation H**). § 87(2)(b) also asked PO Manzo for his name and shield number and alleged PO Manzo responded, "PO Katehis was doing the investigation," and he never provided it (**Allegation I**). Once everyone exited the car, PO Katehis allegedly searched the car and transported it the 40th Precinct stationhouse (**Allegation J**).

§ 87(2)(b) was transported to the stationhouse and charged with aggravated unlicensed operation of a motor vehicle. He was released with a Desk Appearance Ticket (DAT) with the charge of § 87(2)(b) and was issued three moving violation summonses (BR 25).

During the course of the investigation, video footage was obtained which captured the car stop (BR 07). The video footage does not capture audio, and therefore the alleged discourteous words were not captured. The video is recorded by surveillance cameras installed outside 3100 Third Avenue in the Bronx. A SnagIt copy of the video footage is placed below.



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Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation because § 87(2)(b) was arrested.
- On April 21, 2017, a notice of claim inquiry for § 87(2)(b) and § 87(2)(b) was sent to the Office of New York City Comptroller. It revealed that there were no records found (BR 18).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (BR 17).
- PO Katehis has been a member of service for two years and has been the subject of three previous CCRB allegations involving one case. This complaint was withdrawn.
- PO Manzo has been a member of service for one year and this is the first CCRB complaint filed against him.

Findings and Recommendations

Allegations not pleaded

- § 87(2)(g)
- § 87(2)(g)
- Abuse of Authority: Although PO Manzo testified that he frisked § 87(2)(b) the frisk allegation is not being pleaded against him because § 87(2)(b) did not make this allegation.

Allegation A - Abuse of Authority: Police Officer John Katehis searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) (BR 02), § 87(2)(b) (BR 03) and § 87(2)(b) (BR 04, 05) all testified that after PO Katehis asked § 87(2)(b) for his license and to exit the car several times, § 87(2)(b) refused to do what was asked of him and instead asked PO Katehis the reason he was stopped and the reason he had to exit the car. As a result, PO Katehis opened § 87(2)(b)'s car door, reached inside the car and unbuckled his seatbelt, held him by the wrist and allowed him to step out of the car.

During PO Katehis (BR 09) and PO Manzo's (BR 10) CCRB interviews, they testified that after PO Katehis asked § 87(2)(b) several times for his name, license and registration, he

refused to provide the requested information. PO Katehis explained that § 87(2)(b) asked him the reason for the stop and he explained to § 87(2)(b) that once he hands him his license and registration, it would be explained to him the reason for the stop. § 87(2)(b) informed PO Katehis that he did not have identification. PO Katehis explained since § 87(2)(b)'s identity was an issue, it was standard protocol to take an individual to the stationhouse to determine their identity. In regards to this, PO Katehis asked § 87(2)(b) approximately three times to exit the car, and each time § 87(2)(b) refused to exit the car. PO Katehis explained he opened § 87(2)(b)'s door and unbuckled his seatbelt to allow him to exit the car. PO Manzo noted that he moved to the rear of the car and from that angle, he saw PO Katehis open § 87(2)(b)'s car door and unbuckle § 87(2)(b)'s seat belt. PO Manzo explained that § 87(2)(b) was asked to exit the car since he refused to provide his identification and that was a safety concern.

While issuing an individual a summons, an officer must establish the identity of that individual. In case an officer has doubts in regards to the identity of the violator, an officer should remove the individual to the command to investigate his or her identity NYPD Patrol Guide 209-09 (BR 19). In People v. Rosario 94 A.D2d 329 (1983), a valid investigatory stop of a car may be accompanied, as a protective measure, by the opening of any doors and a directive from the police to the occupants to exit the car (BR 23).

§ 87(2)(g)
[REDACTED]

Allegation B – Discourtesy: Police Officer John Katehis spoke discourteously to § 87(2)(b)

After § 87(2)(b) was removed from his car, he was placed in handcuffs. § 87(2)(b) stated to PO Katehis that he was violating his rights, and alleged PO Katehis responded, “You don’t have no fucking rights.” During the course of the incident as § 87(2)(b) was in the RMP, he alleged PO Katehis told him, “You ain’t getting shit” when he asked him for his name and shield number.

§ 87(2)(b) noted that while § 87(2)(b) was being handcuffed at the rear of the car, he was unable to hear anything said between § 87(2)(b) and PO Katehis. However, he later explained he heard § 87(2)(b) say to PO Katehis that he was violating his rights and PO Katehis allegedly responded that § 87(2)(b) had no fucking rights.

During PO Katehis’s CCRB interview, he explained that he did not remember saying, “You have no fucking rights” to § 87(2)(b). He further explained that he did not say to § 87(2)(b) “You ain’t getting shit.” PO Manzo testified that he did not hear PO Katehis use any profanity during the incident or say to § 87(2)(b) “You ain’t getting shit.”

§ 87(2)(g)
[REDACTED]

Allegation C - Abuse of Authority: Police Officer John Katehis interfered with § 87(2)(b)'s use of a recording device.

Allegation D – Abuse of Authority: Police Officer John Katehis damaged § 87(2)(b)'s property.

§ 87(2)(g)

§ 87(2)(b) explained during his CCRB statement that § 87(2)(b) had instructed him to record the incident. When PO Katehis approached his door and instructed him to exit the car, he explained that he attempted to put his phone in his pocket when PO Katehis allegedly attempted to take it from him. § 87(2)(b) alleged PO Katehis reached in the car a second time and snatched his phone out of his hand, looked at the screen, and slammed the phone face down on the top of the car roof which shattered the screen. However, § 87(2)(b) explained that prior to PO Katehis shattering the screen of his phone it was already cracked. A photo taken of the cell phone after the incident indicates that the screen is shattered (BR 22).

§ 87(2)(b) explained he observed PO Katehis grab § 87(2)(b)'s phone and slam it on the roof of the car. § 87(2)(b) also testified that from his location in the RMP he observed PO Katehis slam § 87(2)(b)'s phone on the car roof.

PO Katehis testified that he did not recall seeing any objects on § 87(2)(b) as he instructed him to exit the car. He further explained he did not take § 87(2)(b)'s phone and slam it on the car roof. However, from 1:01 minute to 1:07 minute, the video demonstrated PO Katehis reached inside the vehicle from the rear driver's side and took an illuminated object from § 87(2)(b). At 1:08 minute, PO Katehis put the illuminated object on the car roof (BR 07). When PO Katehis was shown the footage of taking the object from § 87(2)(b) he explained that he did not remember taking the object from § 87(2)(b) or even placing it on the car roof. PO Manzo testified that he was not paying much attention to PO Katehis during the entire stop. He did not observe PO Katehis take § 87(2)(b)'s phone and slam it on the car roof.



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When a police officer stops, detains, or arrest a person in a public area, persons who are attached to the area are naturally in position to and are allowed to observe the police officer's actions. Members of the service do not have probable cause to arrest an onlooker who is videotaping unless the safety of officers or other persons is directly endangered. NYPD Patrol Guide 208-03 (BR 26).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E- Force: Police Officer John Katehis used physical force against § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) explained that after PO Katehis took § 87(2)(b)'s phone he grabbed § 87(2)(b)'s arms and began pulling him out of the car. § 87(2)(b) further explained that while PO Katehis pulled on him, he grabbed the car roof handles and held on. As PO Katehis got a hold of his wrists and began twisting from an inward to an outward position, § 87(2)(b) explained he was pulling back in the opposite direction to avoid being pulled out of the car.

§ 87(2)(b) stated PO Katehis grabbed § 87(2)(b)'s wrists and pulled him out of the car.

PO Katehis testified that when he approached § 87(2)(b) he instructed him to exit the car three times, but § 87(2)(b) refused to exit. PO Katehis explained that § 87(2)(b) told him he was not coming out of the car because God was telling him not to. PO Katehis reached inside of the car and grabbed § 87(2)(b)'s forearm and pulled on him until he was out of the car. PO Katehis explained that while he pulled on him, § 87(2)(b) pulled in the opposite direction and indicated that he could not get out of the car. However, PO Katehis explained that he only pulled on § 87(2)(b) once for him to exit the car. From 1:41 minute to 1:57 minute, the video demonstrated PO Katehis was making several back and forth movements while he held on to § 87(2)(b). When PO Katehis was shown the footage of him making the back and forth movements while holding § 87(2)(b) he was unable to explain the back and forth movements and was unable to tell if he pulled on § 87(2)(b) once to get him out of the car. After seeing the footage PO Katehis did not want to change his testimony in regards to pulling § 87(2)(b) once to get him out of the car. PO Katehis further explained that during that time, he was talking to § 87(2)(b) to exit the car multiple times.



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PO Manzo testified that he was unable to see the entire interaction between PO Katehis and § 87(2)(b). However, he described PO Katehis was at the rear of the car a while and assumed he was having trouble with § 87(2)(b) to get him out of the car. PO Manzo explained that although he observed § 87(2)(b) exit the car, he did not see whether he was pulled out or walked out on his own.

In People v. Forbes 283 A.D. 2d 92 (2001), an officer may order passengers out of a vehicle during a traffic stop (BR 23). An officer may use reasonable force under the circumstances to gain control of a subject NYPD Patrol Guide 221-01 (BR 29).

§ 87(2)(g)

Allegation F – Discourtesy: Police Officer John Katehis spoke discourteously to § 87(2)(b)

Allegation G – Discourtesy: Police Officer John Katehis spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that once he was outside the car, PO Katehis directed his attention to § 87(2)(b) and allegedly stated, “You’re teaching this kid how to be a dumbass like you guys.” § 87(2)(b) responded to PO Katehis which resulted in a back forth between him and PO Katehis. § 87(2)(b) stated to PO Katehis, “I’m not a dumbass,” and alleged PO Katehis told him “Try not to be a dumbass you little bitch.”

§ 87(2)(b) stated in his unverified statement that PO Katehis told § 87(2)(b) “Get out the car you damn kid. You stupid § 87(2)(b) year old.” § 87(2)(b) stated he called PO Katehis an asshole and PO Katehis told him to shut up. During his CCRB statement, § 87(2)(b) explained he and PO Katehis were verbally going back and forth when he called PO Katehis names. § 87(2)(b) expressed PO Katehis did not respond to his comments. However, he heard PO Katehis call § 87(2)(b) a dumbass bitch.

PO Katehis denied making any of the alleged statements. He explained he did not remember having any verbal interactions with § 87(2)(b) or § 87(2)(b) PO Manzo testified that he did not hear PO Katehis make any of the alleged statements.

§ 87(2)(g)

Allegation H- Abuse of Authority: Police Officer John Katehis refused to provide his name and shield number to § 87(2)(b)

Allegation I- Abuse of Authority: Police Officer John Manzo refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) explained after he allowed PO Manzo to retrieve his identification, he also informed him that he did not want to have any further interactions with PO Katehis. § 87(2)(b) asked PO Katehis for his name and shield number, and alleged PO Katehis responded, “You ain’t getting shit. You don’t ask no questions.” § 87(2)(b) then asked PO Manzo for his name and shield number and alleged PO Manzo responded, “PO Katehis was doing the investigation,” and never provided his name or shield number.

PO Katehis first testified that when § 87(2)(b) asked him for his name at the back of the car, he pointed to his name plate. He further explained once § 87(2)(b) was in the RMP he asked a second time and he informed him that everything would be on the paperwork. When PO Katehis was later asked if he refused to provide his name and shield number he explained that he did not recall anyone asking for his name and shield number. He also explained that he did not

hear anyone ask for PO Manzo's name and shield number either. PO Manzo explained that no one asked him for his name and he denied the refusal to provide his name and shield number.

An officer should courteously and clearly state their rank, name, shield number and command when requested by anyone to do so. They should allow enough time to note this information NYPD Patrol Guide 203-09 (BR 27).

§ 87(2)(g)

§ 87(2)(g)

Allegation J – Abuse of Authority: Police Officer John Katehis searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) testified that after everyone was out of the car, PO Katehis entered the car and looked around. PO Katehis went inside the car by the driver's side, looked in the glove and roof compartments. § 87(2)(b) explained that no one gave PO Katehis permission to enter the car. § 87(2)(b) stated in his CCRB statement while § 87(2)(b) sat in the car, PO Katehis entered the trunk and was not given permission to enter the car.

PO Katehis explained after he removed § 87(2)(b) he conducted a quick search of the car for weapons before he transported it to the precinct. He further explained that there was a shovel inside the car and he asked § 87(2)(b) to put it in the trunk. He denied entering the trunk. PO Manzo explained he did not recall seeing PO Katehis enter the car or the trunk ever being opened.

When a vehicle is to be transported to the precinct, a police officer may search the vehicle at the scene to protect them from any danger before it is brought back to the precinct People v. Dickens 218 A.D. 2d. 584 (1995) (BR 28).

§ 87(2)(g)

Squad: 15

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date